

1 JOSHUA N. KASTAN (SBN 284767)

2 [jnk@dkmlawgroup.com](mailto:jnk@dkmlawgroup.com)

3 **DKM LAW GROUP, LLP**

4 535 Pacific Avenue, Suite 101

5 San Francisco, California 94133

6 Telephone: (415) 200-0204

7 Facsimile: (833) 790-5202

8 Attorneys for Defendant,

9 USAA FEDERAL SAVINGS BANK, erroneously named as

10 "UNITED SERVICES AUTOMOBILE ASSOCIATION FEDERAL

11 SAVINGS BANK"

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 JOSHUA MAYNARD,

16 Plaintiff,

17 vs.

18 USAA Federal Savings Bank

19 Defendants.

CASE NO. 4:21-cv-04519-JSW

[Formerly Sonoma County Superior Court Case No. SCV-268348]

**DEFENDANT USAA FEDERAL SAVINGS  
BANK'S RESPONSE TO PLAINTIFF'S MOTION  
TO AMEND THE COMPLAINT**

**Judge:** Hon. Jeffrey S. White

**Date:** July 30, 2021

**Time:** 9:00 AM

**Courtroom:** 5 – 2nd Floor

20 USAA Federal Savings Bank ("USAA FSB"), hereby submits the following Response to  
21 Plaintiff's Motion to Amend the Complaint.

22 **I.**  
23 **RESPONSE IN OPPOSITION**

24 USAA FSB generally does not oppose Plaintiff Joshua Maynard's ("Maynard") Motion to  
25 Amend the Complaint. Pursuant to Fed. R. Civ. P. 15(a), Maynard may voluntarily amend his  
26 Complaint once as a matter of course so long as it is done within 21 days after service of a motion  
27 under Rule 12. (*See* Fed. R. Civ. P. 15(a)(1)(B).) On July 7, 2021,<sup>1</sup> Maynard filed his First  
28 Amended Complaint and therefore, the Motion to Amend the Complaint is now moot. In an

<sup>1</sup> Because USAA FSB's Motion to Dismiss was filed and served on Maynard on June 15, 2021, the 21-day period under Fed. R. Civ. P. 15(a) expired on July 6, 2021. Nonetheless, USAA FSB does not object to the late-filed First Amended Complaint.



1 abundance of caution, USAA FSB hereby submits this response, requesting that the Court strike  
2 Maynard's previously filed Motion to Amend the Complaint given that Maynard has already  
3 voluntarily amended it.

4 USAA FSB further intends to withdraw its previously filed Motion to Dismiss the original  
5 Complaint, as it is also rendered moot by the filing of Maynard's First Amended Complaint. USAA  
6 FSB reserves all objections, defenses, arguments, and position relative to any of the allegations in  
7 the First Amended Complaint and will respond to Maynard's new pleading as appropriate.

8  
9 Dated: July 7, 2021

**DKM LAW GROUP, LLP**

10 */s/ Joshua Kastan*

11 By \_\_\_\_\_

JOSHUA N. KASTAN

Attorneys for Defendant

USAA FEDERAL SAVINGS BANK